

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF POWERTEL/KENTUCKY,)	
INC., A DELAWARE CORPORATION, FOR)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO CONSTRUCT)	CASE NO. 98-340
A PERSONAL COMMUNICATIONS SERVICES)	
FACILITY IN B-252 BASIC TRADING AREA (THE L-)	
KY-085-272 FACILITY))	

O R D E R

On July 8, 1998, Powertel/Kentucky, Inc. ("Powertel/Kentucky") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 275 feet in height, with attached antennas, to be located at 3800 Old Delaplain Road, Georgetown, Scott County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 16' 18.6" by West Longitude 84° 32' 2.5".

Powertel/Kentucky has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the proposed facility's construction is exempt from local zoning ordinances. However, Powertel/Kentucky has notified the Georgetown-Scott County Planning Commission (Planning Commission) of the proposed construction. To

date, no comments have been filed by the Planning Commission. Powertel/Kentucky has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

Powertel/Kentucky has filed notices verifying that each person who owns property within 500 feet of the proposed facility has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to request intervention. In addition, notice of the proposed construction has been posted in a visible location for at least two weeks after filing the application. In response to public notice made by Powertel/Kentucky, the Commission received comments from one property owner (Intervenor) regarding the proposed construction who later requested and was granted intervention. A public hearing was held on October 13, 1998.

During the hearing Powertel/Kentucky provided extensive evidence in support of the proposed construction including the necessity of the proposed construction and its investigation of alternative sites. Powertel/Kentucky determined that there was no more suitable location for the proposed facility from which adequate service could be provided. The Intervenor argued that the proposed location was inappropriate and that the public notice was insufficient because of what the Intervenor deemed was an inaccurate street address. Powertel/Kentucky responded to these allegations by stating that the street address was provided by the county Property Valuation Administrator s office and verified by records reviewed by the land surveyor.

The Commission finds that the proposed construction is necessary and that the location selected by Powertel/Kentucky appears suitable for the proposed facility. In

addition, the Commission finds there is no evidence to show that a more suitable alternative site is reasonably available to provide adequate service.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Powertel/Kentucky should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Powertel/Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Powertel/Kentucky should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. Powertel/Kentucky is granted a Certificate of Public Convenience and Necessity to construct a self-supporting antenna tower not to exceed 275 feet in height, with attached antennas, to be located at 3800 Old Delaplain Road, Georgetown, Scott County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 16' 18.6" by West Longitude 84° 32' 2.5".
2. Powertel/Kentucky shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. Powertel/Kentucky shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 9th day of February, 1999.

By the Commission

ATTEST:

Executive Director